

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

Allstate Insurance Company; Allstate  
Property & Casualty Insurance Company;  
Allstate Indemnity Company; and Allstate  
Fire & Casualty Insurance Company,

Plaintiffs,

v.

Marjorie Belsky, MD; Mario Tarquino, MD;  
Marjorie Belsky, MD, Inc., doing business as  
Integrated Pain Specialists; and Mario  
Tarquino, MD, Inc.; et al.,

Defendants.

And related claims.

Case No. 2:15-cv-02265-MMD-DJA

**Order**

This is a fraud and conspiracy action arising out of Plaintiffs’ allegations that Defendants—doctors and their related businesses—had a procedure of inflating medical bills to leverage artificially enhanced settlement values. Both Plaintiffs and Defendants move to seal documents related to their summary judgment briefings. (ECF Nos. 545, 550). Because the Court finds that Plaintiffs have demonstrated compelling reasons to seal, it grants their motion. (ECF No. 545). Because the Court finds that Defendants have only demonstrated compelling reasons to seal some of their exhibits, but not others, it grants in part and denies in part Defendants’ motion to seal. (ECF No. 550).

**I. Legal standard.**

A party seeking to file a confidential document under seal must file a motion to seal and must comply with the Ninth Circuit’s directives in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006) and *Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092 (9th Cir. 2016). A party seeking to seal judicial records attached to motions more than tangentially related to the merits of the case must meet the “compelling reasons” standard. *See*

1 *Kamakana*, 447 F.3d at 1183; *Ctr. for Auto Safety*, 809 F.3d at 1101. For records attached to  
2 motions not more than tangentially related to the merits of the case, the “good cause” standard  
3 applies. *See Ctr. for Auto Safety*, 809 F.3d 1095, 1101.

4 Under the compelling reasons standard, a court may seal a record only if it finds  
5 “compelling reasons” to support such treatment and articulates “the factual basis for its ruling,  
6 without relying on hypothesis or conjecture.” *Ctr. for Auto Safety*, 809 F.3d at 1096-97.  
7 Compelling reasons exist when such court files might have become a vehicle for improper  
8 purposes, such as the use of records to gratify private spite, promote public scandal, circulate  
9 libelous statements, or release trade secrets. *Id.* at 1097 (internal quotations and citations  
10 omitted). The compelling reasons must be “supported by specific factual findings,” that outweigh  
11 “the general history of access and the public policies favoring disclosure, such as the public  
12 interest in understanding the judicial process.” *Kamakana*, 447 F.3d at 1178-79 (internal  
13 quotations and citations omitted). The Ninth Circuit has rejected efforts to seal documents under  
14 the “compelling reasons” standard based on “conclusory statements about the contents of the  
15 documents—that they are confidential” and that, in general, their disclosure would be harmful to  
16 the movant. *Id.* at 1182. Furthermore, any “requests to seal documents must be ‘narrowly  
17 tailored’ to remove from the public sphere only the material that warrants secrecy.” *Florence v.*  
18 *Cenlar Fed. Sav. & Loan*, No. 2:16-cv-00587, 2017 WL 1078637, at \*2 (D. Nev. March 20,  
19 2017). “As a corollary, to the extent any confidential information can be easily redacted while  
20 leaving meaningful information available to the public, the court must order that redacted  
21 versions be filed rather than sealing entire documents.” *Id.*; *see In re Roman Catholic Archbishop*  
22 *of Portland in Oregon*, 661 F.3d 417, 425 (9th Cir. 2011); *see Welch v. Minev*, No. 2:19-cv-  
23 01064-GMN-BNW, 2022 WL 4809269, at \*2 (D. Nev. Oct. 1, 2022).

## 24 **II. Discussion.**

25 As a preliminary matter, the Court finds that the compelling reasons standard applies  
26 because the exhibits both Plaintiffs and Defendants seek to seal are attached to summary  
27 judgment briefings.  
28

**A. Plaintiffs' motion to seal (ECF No. 545).**

Plaintiffs move to redact certain exhibits to their response to Defendant's motion for summary judgment and to seal other exhibits. (ECF No. 545). Plaintiffs explain that Exhibits 2, 4-7, 9-11, 18-20, 22, 24, 25, 27, 28, and 32-35<sup>1</sup> are depositions of various witnesses that include information regarding patients and medical information. Plaintiffs assert that they have redacted these transcripts to remove private medical information. Plaintiffs also seek to seal Exhibits 1, 3, 8, 12-16, 37, and 38 in their entirety. Plaintiffs explain that Exhibits 1, 3, 8, 12-15, 16, 37, and 38 include protected health information of third parties who treated with Defendants, including descriptions of their injuries, financial information, damages calculations, claims, and medical charges. Plaintiffs argue that, because this information is protected under the Health Insurance Portability and Accountability Act (HIPPA), there is a compelling reason to seal and redact the documents. The Court agrees. *See Ansara v. Maldonado*, No. 2:19-cv-01394-GMN-VCF, 2022 WL 17253803, at \*3 (D. Nev. Nov. 1, 2022) (explaining that "sensitive and private medical information protected by HIPPA" meets the compelling reasons standard); *See Steven City Broomfield v. Aranas*, No. 3:17-cv-00683, 2020 WL 2549945, at \*2 (D. Nev. May 19, 2020) (compiling cases). It will therefore grant Plaintiffs' motion.

**B. Defendants' motion to seal (ECF No. 550).**

Defendants move to seal Exhibits C and D to its response—excerpts of depositions from Plaintiffs' 30(b)(6) designees—that Plaintiffs designated confidential because they believe that they constitute or contain sensitive commercial information and trade secrets regarding how they settle claims. Defendants also move to seal Exhibits F, G, H, L, JJ, OO, and PP to the response because they contain the names of former patients. Defendants explain that they have redacted the names from the documents and thus, the documents need not be sealed in their entirety. However, Defendants have not filed the redacted version of these exhibits on the public docket. Defendants move to seal Exhibit I because it is a third-party contractual agreement and contains

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<sup>1</sup> Plaintiffs refer to Exhibits 17-36 in their motion. However, this appears to be a typo because Exhibits 17, 21, 23, 26, 29, 30, and 31 are filed on the public docket. (ECF Nos. 541-6, 541-10, 542-1, 542-4, 542-7, 542-8, 542-9).

1 sensitive commercial information related to a nonparty. Defendants also move to seal Exhibits T  
2 and U because Plaintiffs designated the documents confidential believing that they contain  
3 sensitive commercial and trade secret information. Defendants do not take a position whether the  
4 documents designated confidential by Plaintiffs meet the compelling reasons standard.

5 The Court grants Defendants' motion in part and denies it in part. The Court denies  
6 Defendants' motion regarding Exhibits C, D, J, N, T, U, Z, AA, and DD. Defendants have not  
7 taken a position on whether Exhibits C, D, T, and U meet the compelling reasons standard to  
8 remain under seal. And Plaintiffs have not filed a response to Defendants' motion. This leaves  
9 the Court without any grounds on which to base its sealing decision. Additionally, Defendants  
10 list Exhibits J, N, Z, AA, and DD in their conclusion, but do not provide any argument regarding  
11 these exhibits. It is also unclear which party designated these documents confidential. The Court  
12 will thus deny Defendants' motion regarding Exhibits C, D, J, N, T, U, Z, AA, and DD. The  
13 Court will not order these documents filed on the public docket at this time. But it will order the  
14 parties to meet and confer and submit a joint submission regarding these exhibits. For each  
15 exhibit, the designator must either establish compelling reasons to keep the documents under seal  
16 or withdraw their confidentiality designations and agree that the documents should be unsealed.  
17 The parties' must file this joint submission on or before September 6, 2023.

18 The Court finds that Defendants have established compelling reasons to seal the  
19 unredacted versions of Exhibits F, G, H, L, JJ, OO, and PP because they contain patient names  
20 and protected health information. But Defendants have not filed the redacted version of those  
21 transcripts on the docket. The Court will thus require Defendants to file the redacted versions of  
22 Exhibits F, G, H, L, JJ, OO, and PP on the public docket on or before September 6, 2023.  
23 Finally, the Court finds compelling reasons to seal Exhibit I because it is a contractual agreement  
24 between two third parties and is marked privileged. *See In re Anthem, Inc. Data Breach*  
25 *Litigation*, No. 15-md-02617-LHK, 2018 WL 3067783, at \*3 (N.D. Cal. Mar. 16, 2018) ("Courts  
26 generally accept attorney-client privilege and the work-product doctrine as a 'compelling reason'  
27 justifying a motion to seal.") (quoting *Hanson v. Wells Fargo Home Mortg., Inc.*, No. 13-cv-  
28 00939-JLR, 2013 WL 5674997, at \*3 (W.D. Wash. Oct. 17, 2013)).

1           **IT IS THEREFORE ORDERED** that Plaintiffs' motion to seal (ECF No. 545) is  
2 **granted.**

3           **IT IS FURTHER ORDERED** that Defendants' motion to seal (ECF No. 550) **is granted**  
4 **in part and denied in part.** It is granted in part regarding Exhibits F, G, H, I, L, JJ, OO, and PP.  
5 It is denied in part regarding Exhibits C, D, J, N, T, U, Z, AA, and DD. However, the Court will  
6 not require the parties to file public versions of Exhibits C, D, J, N, T, U, Z, AA, and DD at this  
7 time.

8           **IT IS FURTHER ORDERED** that on or before **September 6, 2023**, the parties must  
9 meet and confer and file a joint submission regarding Exhibits C, D, J, N, T, U, Z, AA, and DD.  
10 For each exhibit, the designator must either establish compelling reasons to keep the documents  
11 under seal or withdraw their confidentiality designations and agree that the documents should be  
12 unsealed.

13           **IT IS FURTHER ORDERED** that Defendants must file redacted versions of Exhibits F,  
14 G, H, L, JJ, OO, and PP on the public docket on or before **September 6, 2023.**

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16           DATED: August 16, 2023

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19 DANIEL J. ALBREGTS  
20 UNITED STATES MAGISTRATE JUDGE  
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